THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 23822 OF 2007

Dated 23rd November, 2007

Between:

Dalai Kailashini

…Petitioner

And

The Registrar, Dr.N.T.R. University of Health Sciences, Vijayawada, Krishna District and others.

…Respondents.

ORAL ORDER:

Heard learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

The petitioner is a student studying M.B.B.S. course in Andhra Medical College, Visakhapatnam. The petitioner claimed admission into the said course during the year 2007-08 in the seat reserved for Scheduled Tribe as she belongs to Bentho Oriya Community, which is notified as Scheduled Tribe.

The petitioner applied for Caste Certificate and the same was referred to the Tahsildar by the third respondent for conducting enquiry. When no action was taken on the application of the petitioner, the petitioner filed W.P.No. 15602 of 2005, which was disposed of on 23.7.2007 directing the respondents to conduct enquiry. In due course, the petitioner was qualified in the EAMCET-2007 and she was asked to submit the Caste Certificate. Then, she filed Writ Petition No.17504 of 2007 and this Court in W.P.M.P.Nos. 22406 and 22407 of 2007 granted the interim directions prayed for in the WPMPs subject to the condition that the petitioner files an undertaking before the first respondent therein that the admission given to her is subject to the outcome of the enquiry by the competent authority enquiring about the caste status of the petitioner. It is stated that subsequently, the petitioner was allowed to pursue the course, but, however, the Sub-Collector, Tekkali has passed the impugned proceedings rejecting issuance of Scheduled Tribe's Certificate on the ground that the petitioner belongs to "Odiya or Vaddi caste" but not Bentho Oriya (ST) and stating that her admission and continuance into M.B.B.S. course in Dr.N.T.R.University of Health Sciences of Vijayawada may be

cancelled. It is stated that as against the orders of the Sub-Collector, Tekkali, the petitioner has preferred appeal before the appellate authority i.e. the District Collector on 29.10.2007 and the same is pending consideration. On the ground that the said authority has not passed any interim orders and steps are being taken to cancel the admission of the petitioner, the petitioner approached this court.

It is submitted by the learned counsel for the petitioner that though she belongs to Bentho Oriya, which is notified as a Scheduled Tribe, the Sub-Collector, Tekkali has passed impugned orders without conducting proper enquiry and without giving any opportunity. It is submitted that cancellation of her admission into M.B.B.S. at this stage, when the appeal filed by the petitioner is pending consideration will result in great hardship and irreparable loss to the petitioner.

On the other hand, it is submitted by the learned Government Pleader appearing for the respondents that as much as the admission of the petitioner was subject to undertaking given by her in view of the orders passed by this court, the petitioner cannot claim continuance in the course in view of rejection of the claim of the petitioner that she belongs to Bentho Oriya community.

Though the petitioner was granted provisional admission, even before the interim orders are passed by this court, when steps were being taken to cancel the admission, the petitioner approached this court in Writ Petition No. 17504 of 2007. It is not in dispute that the petitioner is continuing in the course and pursuing M.B.B.S. A perusal of the endorsement of the Sub-Collector does not indicate giving of any notice to the petitioner before conducting the enquiry with regard to the claim of the petitioner that she belongs to Bentho Oriya community. It is stated that enquiry was conducted behind the back of the petitioner and without assigning any valid reasons the claim of the petitioner is rejected.

Be that as it may, it is also not in dispute that as against the orders of the Sub-Collector, Tekkali, it is stated in the affidavit that the petitioner preferred statutory appeal as provided under Section 7 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 before the District Collector on 29.10.2007 and the same is pending consideration. In view of the filing of the appeal by the petitioner and its pendency before the District Collector, it is not desirable to go into the merits of the claim. But, however, having regard to the fact that the petitioner is already pursuing the course and the substantive remedy of appeal preferred by the petitioner is pending consideration before the District Collector, I direct the District Collector to dispose of the appeal preferred by the petitioner against the orders dated 10.10.2007 within a period of two months from the date of the receipt of a copy of this order by giving due opportunity to the petitioner and examining the grounds raised by the petitioner. Having regard to the facts and circumstances, I further direct that no steps shall be taken for cancellation of the admission of the petitioner pursuant to the orders of Sub-Collector dated 10.10.2007 passed in Rc.No.1227/2007 till the disposal of the appeal preferred by the petitioner by the District Collector. However, it is made clear that the petitioner shall not claim any equities on the ground of continuance in the course in the event of the appeal ending against the petitioner.

Subject to above directions, the writ petition is disposed of. No costs.

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23-11-2007 **R.SUBHASH REDDY, J.**

VR

Note:

Issue cc by tomorrow.

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